



THOMAS L. GARTHWAITE, M.D.
Director and Chief Medical Officer

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COUNTY OF LOS ANGELES
DEPARTMENT OF HEALTH SERVICES
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BOARD OF SUPERVISORS

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September 24, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**MEMORANDUM OF UNDERSTANDING
WITH THE REGIONAL WATER QUALITY CONTROL BOARD
FOR ON-SITE WASTEWATER TREATMENT SYSTEMS
(All Districts) (3 Votes)**

JOINT RECOMMENDATION WITH THE DIRECTOR OF PUBLIC WORKS THAT YOUR BOARD:

1. Acting as a responsible agency for the project, certify that the Board of Supervisors has reviewed and considered the information contained in the enclosed Mitigated Negative Declaration prepared by the California Regional Water Quality Control Board, Los Angeles Region (RWQCB) for the project.
2. Approve and instruct the Chair to sign the enclosed Memorandum of Understanding (MOU) between the RWQCB and the County of Los Angeles regarding residential Onsite Wastewater Treatment Systems (OWTSs).
3. Instruct the Director of Health Services to prepare an ordinance, for future consideration by the Board, to establish a renewable operating permit for existing and new alternative or enhanced residential OWTSs, as required by the MOU, with a fee to recover the costs of permitting and oversight.
4. Instruct the Directors of Health Services and Public Works to take other actions necessary to implement the requirements of the MOU, including development of an inventory of residential OWTSs in the unincorporated areas as required by the MOU.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

This action is in response to changes in state law regarding the regulation of OWTSSs. Since the early 1950s, the RWQCB has authorized local municipalities, including the County, to regulate residential onsite wastewater treatment systems on behalf of the RWQCB. As a result, individual homeowners who wished to install OWTSSs were not required to obtain coverage under a "Waste Discharge Requirement" (WDR) from the RWQCB. Instead, the RWQCB "waived" its WDR requirements. Under state law, this waiver expired on June 30, 2004, subject to renewal by the RWQCB.

AB 885 was enacted in 2001, requiring the State Water Resources Control Board (State Board) to establish statewide standards for the regulation of OWTSSs. These standards may be enforced by either the RWQCB or by a qualified local municipality. The State Board has not yet promulgated any statewide AB 885 standards. Nevertheless, as the end of the WDR waiver period approached, the RWQCB developed a "template" MOU under which a qualified local municipality would continue to regulate OWTSSs and the RWQCB would renew the waiver for its residents. If no MOU were entered into, the RWQCB would require individual homeowners to obtain coverage under a WDR if they wanted to install or repair a single-family residential OWTSS after June 30, 2004.

Following extensive negotiations, which involved personnel from the Departments of Health Services and Public Works and County Counsel, County and RWQCB staff reached agreement on a proposed MOU in late July, as more fully described in the attached memorandum, dated September 24, 2004. The negotiated version of the MOU differs from the standard "template" MOU developed by RWQCB staff and is more favorable to the interests of unincorporated County residents and to the efficient operation of County departments. On August 5, 2004, the RWQCB approved the negotiated MOU with several changes and extended its waiver of WDRs for 45 days to allow the County Board of Supervisors time to consider the MOU and authorize its execution.. Though the waiver has technically expired, it is anticipated that the RWQCB will not require County residents to obtain WDRs so long as the MOU is promptly agreed to by the Board of Supervisors.

Under the proposed MOU, the County will continue its current practice of reviewing new residential OWTSSs through the building permit application process. In addition, the MOU requires the County to develop an inventory of all residential OWTSSs, new and existing, in the unincorporated areas of the County over a 10 year period. As provided in the MOU, this requirement will continue even if one of the parties terminates the MOU. The County will be also required to amend the County Code following the effective date of any statewide standards adopted pursuant to AB 885, if necessary, in order to retain its Qualified Local Agency status under this MOU.

In addition, the MOU requires the County to undertake certain interim measures pending the adoption of statewide requirements for residential OWTSSs pursuant to AB 885. These interim measures relate primarily to the authority of the County Health Officer to take appropriate steps to address failing residential OWTSSs, including a new requirement that owners of existing and new alternative or enhanced residential OWTSSs (primarily those installed in areas with insufficient soil beneath the system to insure full treatment) would be subject to a renewable permit program with monitoring and reporting requirements.

Either the County or the Regional Board may terminate this MOU, with or without cause, although the Regional Board can do so only at a publicly noticed hearing. If the MOU is terminated, however, the County will still be obligated to complete the inventory.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended actions are consistent with the County's Strategic Plan Goal of Service Excellence by providing residents of unincorporated areas access to County services that are both beneficial and responsive.

The execution of this MOU will allow the residents of the unincorporated County to continue to look to County staff, and not the RWQCB, for the enforcement of water quality requirements in the permitting and approval of new residential OWTSS. The RWQCB has determined that, unless it enters into an MOU with a local agency, it will require individual property owners to obtain coverage under a WDR before installing a residential OWTSS, and it will require certain existing residential OWTSS owners, including those who wish to repair or expand their system, or who are located in certain areas of the County, to obtain coverage under a WDR. The purpose of the MOU is to allow the local agency to regulate residential OWTSS and eliminate the need for its residents to obtain a WDR.

If the attached MOU is not approved by your Board, and the WDR requirement takes effect in the unincorporated areas of the County, individual property owners wishing to develop their property with a single family dwelling would first have to file an application with the RWQCB demonstrating conformance with a stringent General WDR recently adopted by the RWQCB. In addition to a potentially lengthy application process for coverage under the WDR, the RWQCB could require the homeowner to conduct extensive monitoring and reporting of septic system discharge quality through the construction of monitoring wells through surface water sampling. The cost of applying for coverage under the General WDR would range from \$400 to \$900 per application. In addition, the property owner would have to pay an annual fee in the same amount. After receiving RWQCB approval for coverage under the WDR, applicants would still have to complete the building permit application process with the County before being allowed to install the residential OWTSS. Because of the volume of WDR applications that would result, we anticipate that there would be significant delays for County residents seeking permits for their OWTSS.

FISCAL IMPACT/FINANCING

It is anticipated that there will be no fiscal impact associated with the execution of the MOU except for the new requirement of the inventory. Existing building permit fees and the recommended alternative system permit and its associated fee are expected to cover the other costs.

Because of the lack of an existing data base of OWTSS, and the uncertainties of requirements when the AB885 regulations are issued, it is not possible to provide a good estimate of the cost of developing the required inventory over the next 10 years and it is unlikely that grant funds will be available to support all of these costs. However, based on available information the Department of Health Services indicates that the start up costs to begin the inventory in FY 2004-05 will not exceed \$100,000. DHS will identify funding from within its existing resources. DHS will return to the Board in the FY 2005-06 Budget to request funding for the ongoing inventory development costs. The departments are currently reviewing possibilities for combining Assessor's records with information available in DPW and DHS in developing the inventory.

The inventory requirement in this MOU is only for unincorporated areas. If cities who enter into MOUs with the RWQCB request the County's help to develop their inventories, our departments would be able to provide that service and recover their costs from the requesting cities

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The authority for the County and the RWQCB to enter into an MOU may be found in the California Water Code (CWC), Section 13269, which authorizes the RWQCB to waive the requirement for certain classes of dischargers (including owners of residential OWTSS) to obtain coverage under a WDR. The authority for the RWQCB to require WDRs of residential OWTSS operators can be found in CWC, Section 13260.

The attached MOU has been reviewed and approved as to form by County Counsel.

In addition, attached is a copy of the response to the June 22, 2004 Board motion by Supervisor Yaroslavsky regarding the development of Statewide standards for residential OWTSS and the progress of negotiations with the RWQCB for the County's MOU for residential OWTSS.

ENVIRONMENTAL DOCUMENTATION

As lead agency, the RWQCB has prepared and adopted a Mitigated Negative Declaration for this project in compliance with the California Environmental Quality Act. Based on the Mitigated Negative Declaration, the execution of the proposed MOU will not have a significant effect on the environment. The Board of Supervisors' responsibility as a responsible agency is to consider the adopted Mitigated Negative Declaration prior to approving the MOU.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

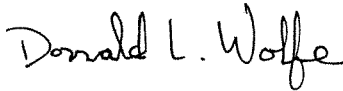
The inventory required under this MOU is to be completed within 10 years, with the first phase to be completed within 5 years. The County is further required to provide the RWQCB with annual updates on the progress of the inventory.

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors transmit a signed original MOU to the RWQCB; return one stamped letter with four certified copies to the Director of Environmental Health at 5050 Commerce Drive, Baldwin Park, California 91706; and return one stamped letter with four certified copies to the Director of Public Works, 900 South Fremont Avenue, Alhambra, California 91803.

Respectfully submitted,


THOMAS L. GARTHWAITE, M.D.
Director and Chief Medical Officer


DONALD L. WOLFE
Interim Director of Public Works

TLC:DLW:rw

Attachments (3)

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors

Effective Date: _____

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION
AND
THE COUNTY OF LOS ANGELES
REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS**

I. RECITALS

WHEREAS, section 13260 of the California Water Code (CWC) requires any person discharging waste or proposing to discharge waste that could affect the quality of waters of the State, except to a community sewer system, to file a report of waste discharge with the local California regional water quality control board which has jurisdiction over the discharge;

WHEREAS, in accordance with section 13260 of the CWC, the California Regional Water Quality Control Board, Los Angeles Region, hereafter referred to as the Regional Board, issues waste discharge requirements (WDRs) to dischargers covering specific waste discharges or types of waste discharge, including discharges from onsite wastewater treatment systems;

WHEREAS, section 13269 of the CWC authorizes a regional board to waive the requirement for a report of waste discharge or waive the need for the regional board to issue WDRs as to specific discharges or types of discharges where such waiver is consistent with any applicable state or regional water quality control plans and is in the public interest;

WHEREAS, sections 13290 and 13291 of the CWC require the State Water Resources Control Board (State Board) to establish statewide standards for the regulation of certain onsite wastewater treatment systems (OWTSs) and authorize the Regional Board to delegate implementation of these standards to a Qualified Local Agency (QLA);

WHEREAS, in 1952, the Regional Board adopted Order 52-4, which waived the requirement for homeowners to obtain WDRs for residential OWTSs in the Region. Section 13269 of the CWC required the Regional Board to review and renew these waivers by June 30, 2004. The waivers may not exceed five years in duration and may be terminated by the State Board or Regional Board at any time. At its regular Board meeting on June 10, 2004, the Regional Board voted to extend the waivers for 60 days in the unincorporated portions of the County of Los Angeles ("County"), with the understanding that the County and other jurisdictions would enter into MOUs regarding the regulation of certain OWTSs;

WHEREAS, OWTSs have been used as a form of wastewater disposal for many decades. Currently, the number of individual residential OWTSs in the Region (Ventura and Los Angeles Counties) exceeds 100,000. In many instances, the discharge from these systems does not adversely affect the beneficial uses of groundwater or surface water quality;

WHEREAS, in some areas, the distance between the leach field or seepage pit and the groundwater may not be sufficient to provide adequate treatment of wastes discharged to OWTSSs. In some cases, the proximity of these systems to surface water bodies may result in surface water contamination from inadequately treated wastes. In other instances, the areal density and cumulative effects of numerous systems may result in inadequate waste treatment. Additional factors may also impede the effectiveness of these systems and create conditions that adversely affect water quality;

WHEREAS, the Regional Board and the County desire to protect water quality and the public health;

WHEREAS, the County, through the Los Angeles County Code, including without limitation, Title 11 and Appendix K of Title 28, as well as other provisions ("Code"), establishes requirements for the design, siting and operation of OWTSSs that are in the unincorporated areas of the County;

WHEREAS, the Regional Board wishes to designate the County as the QLA for the regulation of certain OWTSSs within the County's unincorporated areas, and the County is willing to accept such designation;

WHEREAS, the Regional Board has found that this Memorandum of Understanding (MOU) satisfies the requirements of section 13269 of the CWC and enables the Regional Board to issue waivers of WDRs for those OWTSSs regulated by the County as detailed in this document; and

WHEREAS, pursuant to Resolution R4-008, the Regional Board has delegated to its Executive Officer the power to negotiate and enter into this MOU on behalf of the Regional Board.

NOW, THEREFORE, THE REGIONAL BOARD AND THE COUNTY HEREBY AGREE AS FOLLOWS:

II. DESIGNATION AND AGREEMENT

1. The Regional Board designates the County as the QLA, and the County accepts that designation, for the implementation of applicable siting, permitting, construction, inspection, monitoring, and performance requirements pursuant to the Code and this MOU for certain OWTSSs within the County's unincorporated area ("County-regulated OWTSSs"), as defined in section III.1 of this MOU.
2. The Regional Board and the County agree that the Code and Section V of this MOU will govern applicable siting, permitting, construction, inspection, monitoring, and performance requirements for the County-regulated OWTSSs.
3. This MOU shall be effective for a term of five (5) years from the effective date hereof, in accordance with the provisions of Section VIII hereof, and shall be renewable subject to the provisions of Section VII hereof.

III. APPLICABILITY

1. "County-regulated OWTs" shall consist of those OWTs that generate 20,000 gallons per day or less of "Domestic Sewage" (as that term is defined in Title 28 of the Code) that is disposed of below the ground surface from single family residential structures not covered under Subsection III.2 below.

Notwithstanding the provisions set forth above, County-regulated OWTs shall not include those systems that, upon mutual agreement of the County and the Regional Board, require the issuance of a WDR by the Regional Board. In the event that the County requests the Regional Board to issue a WDR to the operator of such OWTs, the Regional Board shall not unreasonably delay such request or unreasonably delay issuance of the WDR.

2. This MOU shall not apply to any other OWTs within the unincorporated areas of the County, including those that:
 - a. generate over 20,000 gallons per day, or
 - b. discharge wastes from residential developments of more than two homes, or
 - c. discharge wastes from multifamily residential facilities, or
 - d. discharge wastes from commercial facilities, or
 - e. dispose of sewage containing any industrial waste, or
 - f. are proposed to utilize above ground dispersal or storage of sewage effluent.
3. Nothing in this MOU shall in any way diminish or affect the ability of the County to exercise its authority through the Code or otherwise to regulate the type, siting, operation or any other aspect of OWTs to be operated in the unincorporated areas of the County. Issuance of a WDR or other permit by the Regional Board shall not constitute authorization to any person or entity to construct, install or operate any OWT without County approval or otherwise in violation of the Code.

IV. GENERAL PROVISIONS

County Responsibility:

1. The County shall remain the agency responsible for the enforcement of all applicable Code requirements, as well as any "Interim Measures" set forth in Section V below, for the siting, design, approval, installation, operation, maintenance, and monitoring of County-regulated OWTs.
2. The County shall amend the Code within the time required under applicable state law or regulation following the effective date of any statewide standards adopted pursuant to sections 13290 and 13291 of the CWC, if necessary, in order to retain its QLA status under this MOU.

3. Upon the effective date of this MOU, the County shall begin an inventory of all existing County-regulated OWTSS, utilizing an electronic database¹. Such inventory shall be completed within ten (10) years. The County shall prioritize this inventory based on threat to water quality as determined by the County Health Officer. The timeframe for submittal of the first phase of the inventory to the Regional Board is five (5) years. The County shall provide annual updates on the progress of the inventory to the Regional Board.

The inventory shall consist of:

- The total number of existing County-regulated OWTSS.
- The location of each existing County-regulated OWTS by street address, by parcel number, GPS location, or intersection.
- The estimated depth to regional groundwater identified in various regions of the County based on available data.
- The distance of the nearest point of any part of the OWTS to any stream, channel, or other watercourse or water body or, if exact location of the OWTS is unknown, the County shall provide the distance between the nearest point of the property boundary to any stream, channel, or other watercourse or water body. In the alternative, the County shall provide available information regarding the size and other relevant characteristics of the parcel on which the OWTS is located.

Notwithstanding the earlier termination or expiration of this MOU, the County shall continue the inventory described above until it is completed.

4. The County shall require any applicant for a Sewer Permit for a Private Sewage Disposal System ("Permit") to install or repair an OWTS that is subject to the Regional Board's jurisdiction pursuant to Section III hereof to notify the Regional Board and shall not issue any such Permit until the applicant has received a WDR from the Regional Board.

Regional Board Responsibility:

5. After the County amends the Code, if necessary, as provided in Section IV.2 hereof, the Regional Board shall conduct an evaluation of the County's performance under this MOU at least once every five years to ensure that such performance is in conformance with the statewide requirements. Such evaluation shall be based upon the information submitted by the County as set forth in Appendix A, attached hereto and incorporated herein by reference.
6. The Regional Board shall provide assistance to the County upon request from the County. This assistance may be in the form of technical guidance, training opportunities, notification of grant or other funding opportunities and/or review of OWTSS.

¹ The County shall obtain the required information through such means that do not require the County or its employees or contractors to gain access to private property.

7. The Regional Board shall provide timely notice to the County of the development of regulations, any proposed Basin Plan amendments, Regional Board orders or policies related to OWTSS subject to this MOU.
8. The Regional Board shall invite input from the County and other stakeholders during the review of any statewide standards adopted pursuant to sections 13290-13291.7 of the CWC or during the Basin Plan amendment process or the development of Regional Board Orders or policies that regulate OWTSS.
9. The Regional Board shall notify applicants for OWTSS that require WDRs and are to be located in unincorporated areas of the County that the applicant will also need to obtain a Permit from the County.
10. The Regional Board shall provide the County copies of WDRs, notices of violation, and any other permitting and enforcement actions related to OWTSS located within the unincorporated areas of the County.

V. INTERIM MEASURES

The following interim measures shall be implemented by the County as part of its obligation under this MOU.

1. The County Health Officer and County Building Official will act as the enforcing agencies for compliance with the Code and applicable State standards for new and existing County-regulated OWTSS. This shall include enforcement actions involving corrective measures necessary to cease the potential degradation of surface or ground waters by failing systems. Special attention shall be provided in areas adjacent to or hydraulically connected to water bodies identified as impaired under section 303(d) of the Clean Water Act and priority areas identified in section IV.3.
2. Where the County Health Officer has determined that the potential for ground or surface water degradation exists due to the existence of a failing County-regulated OWTSS, the property owner shall be ordered to initiate corrective action as follows:
 - a. utilize the 100% expansion area required by the Code to accommodate additional seepage pits or subsurface drain fields to mitigate failure.
 - b. if the 100% expansion area has been previously utilized or is deemed unsuitable by the County Health Officer, an approved alternative or enhanced system may be used to the satisfaction of the County Health Officer and the County Building Official. The approval will require a recorded covenant and agreement between the homeowner and a third party contractor for maintenance and monitoring services, quarterly reports (telemetry and inspection) and annual effluent sampling to be submitted to the County Health Officer to determine compliance with the Code.
3. Within one year, the County will establish a program to issue renewable operating permits for alternative or enhanced OWTSS (renewable at regular intervals).

4. The County will require a license for persons providing pumping services for County-regulated OWTSS.

VI. ALTERNATIVE SYSTEMS:

Use of alternative systems in circumstances and conditions other than those described in section V shall be permitted only after the County Health Officer and the County Building Official are satisfied as to their adequacy. The adequacy determination will be based on extensive field and test data from conditions similar to those at the proposed site or on such additional data as may be necessary to provide assurance that the alternative system will produce continuous and long range performance at the proposed site. The approval will require a recorded covenant and agreement between the homeowner and a third party contractor for maintenance and monitoring service, quarterly reports (telemetry and inspection) and annual sampling.

VII. EVALUATION:

1. This MOU shall be evaluated pursuant to the factors set forth in Appendix A commencing no later than January 10, 2009 and every five years thereafter, and shall be re-negotiated if both parties agree to modification of the terms and conditions contained herein. If the MOU is not re-negotiated, it shall remain in effect for another five years. If re-negotiated, the re-negotiated MOU shall remain in effect for five years.
2. The evaluation of the County's performance under this MOU is a cooperative process between the County and the Regional Board. The intent of the evaluation is to identify those aspects of the program that provide desired results, and those that need improvement.
3. The information submitted to the Regional Board pursuant to Appendix A shall be used by Regional Board staff to evaluate the County's performance under the MOU. To the extent it has findings and recommended program modifications, Regional Board staff shall provide to the County in writing such findings and recommended modifications within thirty days of completion of the evaluation. The Regional Board shall provide at least twenty-one days written notice to the County prior to performance of the evaluation.
4. Within sixty (60) days of receipt of any written findings and recommended program modifications from the Regional Board, the County shall provide a written response detailing any actions taken or proposed regarding the findings and recommendations.

VIII. ENFORCEMENT OF THE MOU:

1. The Regional Board and the County each shall be responsible for enforcing its individual obligations under this MOU.
2. The County may terminate this MOU, with or without cause, upon ninety (90) days written notice to the Regional Board. The Regional Board may terminate this MOU, with or without cause, by vote of the Regional Board at a regularly noticed hearing of the Board. The Regional

Board shall provide the County at least thirty days notice prior to such hearing. The County shall be given reasonable opportunity to comment upon the requested termination.

3. In addition to the foregoing, in the event that regulations under CWC sections 13290-13291.7 are not adopted by July 1, 2005, the Regional Board staff shall provide information, at a public hearing, to the Regional Board as to the status of adoption of the regulations, whereupon the Regional Board shall, at its discretion, have the right to terminate the MOU, or direct staff to renegotiate the MOU, or take other actions as the Regional Board shall deem appropriate.

IX. ACCEPTANCE:

This Memorandum of Understanding is hereby entered into by the parties on, and its effective date is, _____, 2004

[Insert the last date of the two signature dates below]

Date

[Insert individual's name and title], on behalf of the
County of Los Angeles

Original signed by Jonathan Bishop on August 12, 2004

Date

Jonathan Bishop
Interim Executive Officer
Los Angeles Regional Water Quality Control Board

**MEMORANDUM OF UNDERSTANDING
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
AND
THE COUNTY OF LOS ANGELES
APPENDIX A**

**INFORMATION REQUIRED FOR EVALUATION OF THE ONSITE WASTEWATER
TREATMENT SYSTEM PROGRAM OF THE COUNTY OF LOS ANGELES**

1. The County of Los Angeles ("County") shall submit the following information to the Regional Board once every five years upon request:
 - The number of Permits (as that term is defined in the Memorandum of Understanding to which this Appendix A is attached ("MOU")) issued for new construction, repairs, additions, and abandonment, organized by type (conventional or alternative) of County-regulated OWTs (as that term is defined in the MOU).
 - The results of any monitoring program for County-regulated OWTs.
 - A log containing complaints, directives to take corrective action and status of responses to directives for County-regulated OWTs.
2. The five-year evaluation of the County's implementation of the MOU by the Regional Board may include:
 - Office review of the Code.
 - Field review of County staff activity pertaining to its performance under the MOU.
 - Field review of various types of County-regulated OWTs. Any inspection of such OWTs shall be done with the permission of the property owner or pursuant to appropriate legal process, the obtaining of which shall be the sole responsibility of the Regional Board.
 - Office review of files, inspection records, monitoring results and reports, plans or other information pertaining to County-regulated OWTs.
 - Review of County-regulated OWTs owner outreach, education, and compliance assistance programs.
 - Review of any groundwater monitoring program implemented by the County for the purpose of monitoring discharges from County-regulated OWTs.



THOMAS L. GARTHWAITE, M.D.
Director and Chief Medical Officer

FRED LEAF
Chief Operating Officer

COUNTY OF LOS ANGELES
DEPARTMENT OF HEALTH SERVICES
313 N. Figueroa, Los Angeles, CA 90012
(213) 240-8101

BOARD OF SUPERVISORS

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First District

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Michael D. Antonovich
Fifth District

September 24, 2004

TO: Each Supervisor

FROM: Thomas L. Garthwaite, M.D.
Director and Chief Medical Officer

Donald L. Wolfe
Interim Director of Public Works

SUBJECT: **DEVELOPMENT OF STATEWIDE STANDARDS FOR ON-SITE
WASTEWATER TREATMENT SYSTEM**

This report is in response to the Board's June 22, 2004 motion by Supervisor Yaroslavsky instructing the Directors of Public Works and Health Services to prepare a report on the development of Statewide standards for on-site wastewater treatment systems, and on the progress of negotiations with the Regional Water Quality Control Board (RWQCB) for the County's Memorandum of Understanding (MOU) for On-site Wastewater Treatment Systems (OWTSS). An estimate of the resources that will be necessary to complete the inventory of OWTSS in unincorporated areas of the County is also included.

The Status of Development of Statewide Standards for On-site Systems

Pursuant to Assembly Bill 885, the State Water Resources Control Board (SWRCB) was charged to develop Statewide requirements for the regulation of the OWTSS that could affect water quality. Those Statewide requirements were supposed to be implemented by January 1, 2004. For a number of reasons, the deadline was not met. The SWRCB published internal draft regulations for review by stakeholders on May 25, 2004.

On July 21, 2004, SWRCB convened a stakeholders meeting for input on the May 25 internal draft regulations. The major organizations present were the California Conference of Directors of Environmental Health, The California Onsite Wastewater Organization, the Regional Council of Rural Counties, Heal the Bay, the California Environmental Health Association, and representatives from two Regional Water Quality Control Boards. While some agenda issues were resolved, there are a number of significant remaining issues regarding how prescriptive the Statewide requirements would need to be in order to adequately protect the beneficial uses of the waters of the State.

A meeting of representatives of key stakeholders was held on September 7-8, 2004, in Sacramento, to attempt to resolve these major remaining issues in the draft Statewide regulations. Los Angeles County was represented at this meeting. SWRCB offered substantial changes to the current draft regulations and tentative agreement was reached on some of the major issues. Stakeholder comments will be integrated and revised regulations are expected to be circulated by the end of October 2004.

Eventually, the SWRCB will release the final draft regulations for public comment. When the regulations have been finalized by the SWRCB, they will be reviewed by the Office of Administrative Law and an environmental document will be prepared. The Environmental Impact Report process is expected to take at least one year. It is estimated that the draft Statewide regulations will not be completed until January 2006. As currently drafted, the first phase of the regulations would take effect beginning January 1, 2007.

Potential Impacts of the Draft Statewide Standards

The internal draft regulations, if they are substantially incorporated into the final AB 885 regulations, would require:

1. A higher standard for all onsite systems adjacent to waterbodies that have been identified as impaired under Section 303(d) of the 1972 Clean Water Act. This statute requires states to develop a list of the surface waters that do not meet water quality standards. This law requires the State to develop action plans for the waters on this list to improve water quality.
2. Performance standards for all systems that have the potential to impact groundwater quality.
3. Renewable operating permits as a means of managing alternative and enhanced OWTSS which require a high level of monitoring and maintenance oversight.
4. Prescriptive standards for the design and siting criteria used to approve OWTSS. This takes into account site specific factors such as soil characteristics that determine system sizing, separation to surface and ground waters, and topography.
5. An expanded definition of what constitutes failure of an OWTSS to include systems that do not meet specific performance standards and pose a potential threat to groundwater quality.

The impact on the County will be an increase in workload and necessary training in order to enforce the expanded standards and to provide management oversight for the performance of all regulated onsite systems. This affects the Departments of Health Services and Public Works. At this juncture, given that the regulations have not been circulated for public comment and there is still the chance that the regulations will be significantly modified, it is impossible to provide an estimate on the additional funds needed to comply. It is safe to conclude, however, that some additional level of regulation of OWTSSs, including those within the unincorporated areas of the County, will be required. These regulations also will affect all incorporated cities with OWTSSs.

The Progress of MOU Negotiations with the Regional Water Quality Control Board

As we have previously advised, staff from the Departments of Health Services and Public Works assisted by County Counsel, have been negotiating the terms of a Memorandum of Understanding (MOU) with the Los Angeles Regional Water Quality Control Board (RWQCB) that would enable the County to continue regulating OWTSSs within the unincorporated areas of the County. Staff reached a tentative agreement on the terms of the MOU with RWQCB staff in late July.

On August 5, 2004, the RWQCB approved a resolution adopting waivers of Waste Discharge Requirements and a MOU for residential onsite wastewater treatment systems in the County of Los Angeles that essentially tracked the draft worked out by County and RWQCB staff. This MOU shall become effective upon adoption by the County Board of Supervisors.

At its September 2, 2004, meeting, the RWQCB adopted stringent General Waste Discharge Requirements for OWTSSs in the Los Angeles Region affecting operators of both new and certain existing systems. However, if the County and the RWQCB enter into the MOU, the Waste Discharge Requirements will not be enforced against residents in the unincorporated areas. The LA RWQCB does not have jurisdiction over OWTSSs in the Palmdale/Lancaster area. These systems are within the jurisdiction of the Lahontan RWQCB, which has elected not to require Waste Discharge Requirements at this time.

Included in the MOU are various "interim measures" intended primarily to address failing OWTSSs and to require owners of alternative or enhanced systems, which are installed in areas where there is insufficient soil below the system to ensure complete treatment, to obtain an annual permit. An ordinance will need to be approved by the Board of Supervisors in order to instigate this new permit process. In addition, the MOU calls for the County to inventory all OWTSSs in the County, both new and existing, over a ten-year period. The MOU also would require the County to implement AB 885 regulations, through possible amendment of the County Code. The MOU provides that it may be terminated by either the County or the RWQCB.

It should be noted that while the MOU does not cover incorporated cities that contract with the County for various OWTSS-related building and safety or health services, a city may enter into a separate MOU with the RWQCB. County staff have already advised the cities of this responsibility.

Estimate of Resources Necessary to Complete an Inventory of Onsite Systems in the Unincorporated area of the County and Fulfill the Commitments of the MOU:

Because of the lack of an existing data base of OWTs, and the uncertainties of requirements when the AB885 regulations are issued, it is not possible to provide a good estimate of the cost of developing the required inventory over the next 10 years and it is unlikely that grant funds will be available to support all of these costs. However, based on available information the Department of Health Services indicates that the start up costs to begin the inventory in FY 2004-05 will not exceed \$100,000. DHS will identify funding from within its existing resources. DHS will return to the Board in the FY 2005-06 Budget to request funding for the ongoing inventory development costs. The departments are currently reviewing possibilities for combining Assessor's records with information available in DPW and DHS in developing the inventory.

The Los Angeles County Plumbing Code prescribes the minimum standards for OWTs including the presence of a soil matrix to provide for treatment of the sewage effluent before it reaches groundwater. Where this soil matrix is absent, appropriate advanced treatment of the effluent prior to discharge can achieve equivalent pathogen and contaminant reduction to protect ground water quality. Such advanced treatment systems require considerable maintenance and oversight to ensure a consistent and acceptable level of performance. This will require the establishment of a renewable operating permit from the Department of Health Services to provide for management oversight of these systems and to recover costs associated with this service.

If you have any questions or need additional information, please let us know.

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c: Chief Administrative Officer
County Counsel
Executive Office, Board of Supervisors